

ESTATE OF JOSEPH NOEL SIMPSON : Order Affirming Decision
:
: Docket No. IBIA 00-103
:
: March 19, 2001

Appellant George J. Simpson seeks review of a June 16, 2000, order denying rehearing entered in the estate of Decedent Joseph Noel Simpson by Administrative Law Judge Nicholas T. Kuzmack. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Decedent died intestate on March 14, 1998. Judge Kuzmack held hearings to probate Decedent's trust estate on July 27 and September 14, 1999. By order dated January 14, 2000, the Judge determined that Decedent's heirs were his two daughters, Sylvia Agnes Simpson and Mitzi Nanamkin Sweowat; and grandson, Shawn Edward Simpson.

Appellant, who is Decedent's brother, sought rehearing in order to contest the determination that Mitzi Nanamkin Sweowat was Decedent's daughter. Judge Kuzmack denied rehearing in the June 16, 2000, order at issue here. He stated at page 1 of that order: "[Appellant] is not a presumptive heir, actual heir or beneficiary to this estate. [Appellant] is not adversely affected and does not stand to gain or lose by a modification of the decision. Consequently, pursuant to 43 C.F.R. § 4.241 [Appellant] does not have standing to petition [for rehearing.]" Section 4.241, which deals with rehearings, provides in pertinent part that "[a]ny person aggrieved by the decision of the administrative law judge" may petition for rehearing.

In his notice of appeal, Appellant contends that he has standing because "anyone can file an appeal whether they are adversely affected or not." Appellant did not file a brief in this matter and so did not elaborate further on his contention.

The Board has, on numerous occasions, discussed standing to seek rehearing or reopening in probate cases. It has consistently held that, in order to have standing, a person must be a "party in interest" within the meaning of 43 C.F.R. § 4.201(i). See, e.g., Estate of Gilbert Yellowwolf, 36 IBIA 65 (2001); Estate of Frank Nelson Buffalomeat, 34 IBIA 120,

121 (1999), and cases cited there. Subsection 4.201(i) defines “party in interest” to mean “any presumptive or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian’s estate, and any Tribe having a statutory option to purchase interests of a decedent.” Appellant does not contend that he meets this definition.

Because Appellant has not shown that he is a “party in interest,” the Board concludes that Judge Kuzmack properly denied Appellant’s petition for rehearing on the grounds that he lacked standing.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Judge Kuzmack’s June 16, 2000, order denying rehearing is affirmed.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge